

Update: Juvenile Justice Benchbook (Revised Edition)

CHAPTER 7

Pretrial Proceedings in Delinquency Cases

7.8 Evaluating a Juvenile's Competence

Insert the following text on page 164 before Section 7.9:

An unpublished opinion of the Michigan Court of Appeals is not precedentially binding under the rule of stare decisis. MCR 7.215(C)(1). The following unpublished case is provided to assist the bench in an area without published case law.

Judicial Admission of a Mentally Retarded Juvenile. In an unpublished opinion, the Court of Appeals held that the Mental Health Code prohibits judicial admission to a mental health care facility of a mentally retarded juvenile who was determined incompetent to stand trial and whose condition will not improve. In *In re Blackshear*, unpublished opinion per curiam of the Court of Appeals, decided March 30, 2004 (Docket No. 240556, 240665, and 240666), the trial court committed a juvenile who was deemed incompetent to stand trial on the basis of his mental retardation to a Community Mental Health Agency for care, treatment, and supervision. Noting that the Mental Health Code is silent regarding judicial admission of a mentally retarded juvenile who has been found incompetent and whose condition will not improve within 15 months, the trial court followed *In re Carey*, 241 Mich App 222 (2000), by construing the provisions of the Mental Health Code to protect the juvenile's rights. The trial court used MCL 330.2031 as guidance. MCL 330.2031 provides that if a defendant is deemed incompetent to stand trial and the court determines that he or she is unlikely to attain competence with 15 months, the court may direct the prosecuting attorney to file a petition alleging that the defendant is a person requiring treatment as defined by MCL 330.1401 (governing mental illness) or meets the criteria for judicial admission as defined by MCL 330.1515 (governing mental retardation). Pursuant to MCL 330.1515, the trial court judicially admitted the juvenile to a mental health care facility. The Court of Appeals reversed the order because the express language in MCL 330.1515 provides for court admissions of individuals *18 years of age or older*. MCL 330.1503(1) also expressly

prohibits the court from judicially admitting an individual under the age of 18. The Court of Appeals concluded that “the trial court in this case was not allowed to disregard the clear directives of the act and judicially admit the juvenile to mental health care.”

CHAPTER 20

“Automatic Waiver” Proceedings— Arraignments & Preliminary Examinations

20.2 “Automatic Waiver” of Family Division Jurisdiction

Near the top of page 432 after the first four bullets, insert the following bullets:

- a lesser-included offense of any of the above-enumerated offenses if the juvenile is charged with an above-enumerated offense, MCL 712A.2(a)(1)(H), MCL 600.606(2)(h), and MCL 764.1f(2)(h);
- any other violation arising out of the same transaction as any of the above-enumerated offenses if the juvenile is charged with an above-enumerated offense, MCL 712A.2(a)(1)(I), MCL 600.606(2)(i), and MCL 764.1f(2)(i).